

REMARKS

Claims 1-10 and 17-26 are pending in the application. Claims 1 and 24 are being amended. Amendment to claims 1 and 24 clarifies the language of the claims.

All outstanding requirements will now be addressed in the order they appear in the Office Action mailed September 19, 2008.

Claims Rejections - 35 USC § 102 and 103

Claims 1, 2, 9 and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by Plotnick, Michael A., US Patent No. US 20020144262 A1, which recites a system of transmission of television programs with a variable number of advertisements. In addition claims 5, 6 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick, Michael A., US Patent No. US 20020144262 A1, whereas claims 3, 17-26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick, US Patent No. US 20020144262 A1, and further in view of Takatori, Masahiro US 20040021793 A1. Furthermore, claims 3, 4 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick, US Patent No. US 20020144262 A1, and further in view of Fujita, US Patent No. US 20050201721 A1.

The Applicant respectfully disagrees and requests reconsideration of the claims as amended.

The present amendment of claim 1 clarifies relations between playback and recording signals. With respect to invocation of the playback and recording signals by the processor, the arguments apply to claim 10. With respect to invocation of the above playback and recording signals by the marker analysis block, the presented arguments apply to claim 24 as well.

The Examiner argues that Plotnick discloses a feature of receiving a television program uninterrupted by advertisements. Applicant respectfully directs the Examiner's attention to the fact that all presented embodiments, Fig. 12A to Fig. 14B, are directed to a television

program interrupted by an advertisement or an avail for an advertisement, which are considered equivalents.

Applicant respectfully submits that the features of presenting a channel change advertisement and recording lack common context in Plotnick and are separate features existing as such, without any incentive to combine. Again, to emphasize, a channel change action from a channel A to channel B may result, according to Plotnick, in displaying of an advertisement [0128]. Nevertheless it does not, by any means, result in recording the channel A and returning to displaying of the channel A from the moment of interruption by displaying the advertisement.

Additionally, the concepts of displaying of advertisements in avails and displaying of advertisements during channel change are separate. The present invention provides an alternative and improvement over the first of the aforementioned concepts. This is achieved by removal of avails and transmission of markers only, which with a help of a recording system, allow for easy advertisements insertion at specified times, while recording the originally broadcast live television content for presentation at a time when advertisements displaying has finished. Moreover, as an additional effect, the present invention allows for easy adjustments of times when advertisements are to be presented. This is not the case with the solution of Plotnick where the advertisements have their unchangeable placement within the stream.

Plotnick explicitly discloses that displaying of advertisements during channel change is a separate invention disclosed in another application. Therefore, Applicant believes that a rejection under 102(b) is not applicable in the present case. Additionally, there is no specific statement in the references to combine their selected features.

The Examiner combines two separate features of Plotnick, namely “stopping displaying and starting recording of a television program” and “displaying advertisements” that are completely separate and there is no motivation, in the disclosure of Plotnick, to combine these features. Moreover even if these separate, according to Plotnick, features were

combined one would still not achieve the effect of resuming playback from the time of channel change after an advertisement has been presented.

Finally the Examiner argues that a feature of “starting reproduction of the television program from the moment of starting recording” has been disclosed in Plotnick with reference to paragraph [0128] where a recorded program is played back. Applicant respectfully submits that in Plotnick television data are not recorded during displaying of advertisements and hence cannot be resumed from a point when advertisements displaying started.

If this were the case, Plotnick would display a default advertisement or an avail after displaying a correctly-chosen advertisement, which is unfavorable taking into account the aim of Plotnick’s disclosure.

In Applicant’s view, the present invention is nonobvious since no one prior to Applicant’s disclosure had disclosed or recited recording a current channel while presenting advertisements and returning to playback of the recorded data after the displaying of the advertisements has finished. In addition, the desire to decrease data redundancy in the downstreams of Plotnick would not lead one skilled in the art to a solution where a recording of a current channel is invoked. Therefore, there is also no motivation to combine the references taking into account the nature of the problem to be solved.

Applicant respectfully requests the Examiner to reconsider his rejections and determine the content of the prior art at the time the invention was made to avoid impermissible hindsight.

THIS SECTION INTENTIONALLY LEFT BLANK

CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited.

Customer Number: **33,794**

Respectfully Submitted,

/Matthias Scholl/

Dr. Matthias Scholl, Esq.
Reg. No. 54,947
Attorney of Record

Date: December 11, 2008